

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

AVIA TURNER-GRAY,
Plaintiff,
v.
AVIS BUDGET GROUP INC.,
Defendant.

Case No. [23-cv-05507-SI](#)

**ORDER GRANTING IN PART
PLAINTIFF'S MOTION TO FILE
AMENDED COMPLAINT; AMENDED
COMPLAINT TO BE FILED NO
LATER THAN JULY 24, 2024;
VACATING JULY 19 CASE
MANAGEMENT CONFERENCE;
SCHEDULING FURTHER CASE
MANAGEMENT CONFERENCE FOR
AUGUST 23, 2024 AT 3 PM**

Re: Dkt. No. 31

Plaintiff Avia Turner-Gray's motion to file an amended complaint is scheduled for a hearing on July 19, 2024. Pursuant to Civil Local Rule 7-1(b), the Court determines that the matter is suitable for resolution without oral argument and VACATES the hearing. The motion is GRANTED IN PART as set forth below.

Turner-Gray requests leave to file an amended complaint to re-add defendants AMN Healthcare Interim Solutions, LLC and AMN Healthcare, Inc., and to assert several new causes of action, including "recklessness" and malicious prosecution. Avis objects to the addition of these causes of action on several grounds. Turner-Gray did not file a reply to Avis's opposition.


The Court concludes that under Federal Rule of Civil Procedure 15(a)(2), Turner-Gray should be given leave to file the amended complaint. However, the Court agrees with Avis that recklessness describes a state of mind and is not an independent cause of action under California law. *See Delaney v. Baker*, 20 Cal. 4th 23, 31 (1999) (discussing recklessness). As such, the amended complaint shall not include a cause of action for recklessness. As to the cause of action for malicious prosecution, the Court finds that the amended complaint sufficiently alleges the

1 elements of such a claim, as Turner-Gray alleges that she obtained a finding of factual innocence
2 and that Avis's conduct was malicious. Finally, the Court notes that the proposed amended
3 complaint does not make clear which causes of action are brought against which defendants. The
4 Court directs Turner-Gray to provide that clarification in the amended complaint.

5 Accordingly, the Court GRANTS plaintiff's motion and directs Turner-Gray to file the
6 amended complaint no later than July 24, 2024. The amended complaint shall not contain a cause
7 of action for recklessness and shall state, for each cause of action, which defendants are named in
8 that cause of action. **The Court schedules a case management conference for August 24, 2024**
9 **at 3 p.m. via zoom.**

10 **IT IS SO ORDERED.**

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12 Dated: July 16, 2024

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14 SUSAN ILLSTON
15 United States District Judge
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